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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11
12 FAMOUS BIRTHDAYS, LLC, a
13 California limited liability company,

14 Plaintiff

15 v.

16 PASSES, INC., a Delaware
17 corporation; and LUCY GUO, an
18 individual,

19 Defendants

Case No. 2:24-cv-08364-AS

**PLAINTIFF'S MOTION TO
STRIKE DEFENDANTS' SUR-
REPLY IN OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION (DKT. 32)**

Date: December 10, 2024

Time: 10:00 A.M.

Courtroom: 8D

Judge: Consuelo B. Marshall

Assigned to Judge Consuelo B.
Marshall, Magistrate Judge Stephanie
S. Christensen

Action Filed: September 27, 2024

Trial Date: None Set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendants’ purported “Notice of Supplemental Authority” (Dkt. 32) is an impermissible sur-reply in response to Plaintiff’s Reply in Support of Motion for Preliminary Injunction that was filed in blatant violation of the Central District of California Local Rules (“L.R.”) and should be stricken.

II. ARGUMENT

The Local Rules are explicit: the moving party files the opening brief (L.R. 7-5); the opposing party files an opposing memorandum (L.R. 7-9), and then the moving party files a reply brief (L.R. 7-10). *“Absent prior written order of the Court, the opposing party shall not file a response to the reply.”* C.D. Cal. L.R. 7-10 (emphasis added); *see Ray v. Nordstrom Inc.*, 2011 WL 6148778, at *1 n.1 (C.D. Cal. Dec. 9, 2011) (striking defendant’s “Notice of New Authority and Facts” “as an impermissible sur-reply[,]” pursuant to L.R. 7-10, as it was filed without obtaining leave of the Court).

Here, Plaintiff Famous Birthdays, LLC’s (“Famous Birthdays”) Motion for Preliminary Injunction (the “Motion”) was filed on October 19, 2024 (Dkt. 10); Defendants Passes, Inc. (“Passes”) and Lucy Guo’s (“Guo” and with Passes, “Defendants”) Opposition to the Motion was filed on November 13, 2024 (Dkt. 24); and Famous Birthdays filed its Reply on November 19, 2024. (Dkt. 30).

Inexplicably, on November 26, 2024, Defendants filed their purported “Notice of Supplemental Authority” (Dkt. 32), attaching seven cases, alongside a brief quotation from each case. This a quintessential impermissible sur-reply, and Defendants made no attempt to: (1) comply with the Local Rules by seeking leave of the Court; (2) meet and confer with Famous Birthdays’ counsel regarding Defendants’ desire to file a sur-reply; or (3) explain, in any way, what allows Defendants and their counsel to simply ignore the Local Rules. *See Ray*, 2021 2011 WL 6148778, at *1 n.1.

Defendants are represented by experienced counsel that is certainly familiar with this Court's Local Rules, and should be required to comply with them. Indeed, the Central District of California has even admonished *pro se* litigants for such violations. *Ronk v. Hudson*, 2021 WL 4898450, at * n.1 (C.D. Cal. Feb. 3, 2021) ("Plaintiff is reminded persons appearing pro se are bound by the Local Rules, including its limitations on sur-replies.").

III. CONCLUSION

For the foregoing reasons, Famous Birthdays respectfully requests the Court strike Defendants' Notice of Supplemental Authority (Dkt. 32) from the Docket.

Respectfully yours,

DATED: December 4, 2024

KATTEN MUCHIN ROSENMAN LLP

By: 

CHRISTOPHER D. BEATTY
Attorneys for Plaintiff
FAMOUS BIRTHDAYS, LLC

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiff Famous Birthdays, LLC, certifies that this brief contains 387 words, which complies with the word limit of L.R. 11-6.1.

Respectfully yours,

DATED: December 4, 2024

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